

HOUSE BILL REPORT

SHB 2617

As Amended by the Senate

Title: An act relating to school district financial insolvency.

Brief Description: Regarding school district financial insolvency.

Sponsors: House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Anderson and Haigh; by request of Superintendent of Public Instruction).

Brief History:

Committee Activity:

Education Appropriations & Oversight: 1/31/12, 2/2/12 [DPS].

Floor Activity:

Passed House: 2/10/12, 97-0.

Senate Amended.

Passed Senate: 2/29/12, 45-3.

Brief Summary of Substitute Bill

- Establishes criteria for a school district to be identified as financially insolvent, and authorizes creation of a Financial Oversight Committee to review the financial condition of these school districts.
- Establishes a process by which a financially insolvent school district may be dissolved and annexed by one or more contiguous school districts.
- Establishes dates by which boundary changes must become effective.

HOUSE COMMITTEE ON EDUCATION APPROPRIATIONS & OVERSIGHT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 18 members: Representatives Haigh, Chair; Probst, Vice Chair; Anderson, Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Fagan, Assistant Ranking Minority Member; Dahlquist, Hansen, Hargrove, Hope, Maxwell, Nealey, Orwall, Pollet, Reykdal, Santos, Seaquist, Sells and Short.

Staff: Jessica Harrell (786-7349).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

Currently, a school district that cannot submit a balanced annual budget to the Office of Superintendent of Public Instruction (OSPI) may request permission to borrow against future apportionment payments. The OSPI places such a district on "binding conditions" intended to improve the district's financial situation. Binding conditions are monitored by the Educational Service Districts (ESDs), but the ESDs have limited authority and primarily serve in a consulting role.

Current laws emphasize voluntary and negotiated reorganization of school districts. A Regional Committee convened by the ESD is authorized to make decisions when agreement among districts is not possible, and is also authorized to make necessary adjustments to assets and liabilities of affected districts when there is a reorganization. There are only two references to dissolution of a school district:

1. District boundaries may be altered by the dissolution and annexation of part or all of another district.
2. A Regional Committee must dissolve any school district that had an annual enrollment of fewer than five K-8 students in the prior year or has not made a reasonable effort to provide the minimum 180-day school year.

In 2011 the Legislature directed the OSPI to convene the ESDs for the purpose of analyzing options and making recommendations for a clear legal framework and process for dissolution of a school district on the basis of financial insolvency. The required analysis included:

- a definition of financial insolvency;
- a timeframe, criteria, and process for initiating dissolution of a district;
- roles and responsibilities of various entities, including the OSPI, the ESDs, and regional committees on school district organization; and
- recommendations with respect to various issues such as terminating staff contracts, liquidation of liabilities, and dealing with bonded indebtedness.

Summary of Substitute Bill:

A financially insolvent school district is defined as one that has been on binding conditions for two consecutive years or is reasonably foreseeable and likely to have a deficit general fund balance within three years, and is unable to prepare a satisfactory financial plan. A satisfactory financial plan is a plan approved by the Superintendent of Public Instruction (SPI) and the ESD demonstrating that the district will have an adequate fund balance by the end of the plan period that relies on currently available revenue streams or revenue streams that the ESD determines are reasonably reliable.

The SPI is directed to convene a Financial Oversight Committee (Oversight Committee) if a district is found to be financially insolvent or at the request of a financially insolvent district. The Oversight Committee is made up of two representatives of the OSPI, one representative from an ESD where the district is not located, and one nonvoting representative from the ESD where the district is located. The purpose of the Oversight Committee is to review the financial condition of a financially insolvent school district, hold a public hearing, and make a recommendation to the SPI as to whether the district should be dissolved or placed under

enhanced financial monitoring. The parameters of enhanced financial monitoring are specified.

The SPI may file a petition with the appropriate regional committee to dissolve a financially insolvent school district if recommended by the Oversight Committee. The petition must specify the proposed annexation of the district by one or more contiguous school districts and the disposition of assets and liabilities of the district. Using the same process and timelines as for other school district reorganization and boundary adjustments, the ESD negotiates with the identified contiguous school districts and attempts to seek agreement regarding annexation of the financially insolvent district. The agreement must be approved by the Oversight Committee. If the districts cannot agree, the matter is forwarded to the regional committee for a decision using the process and criteria under current law. Any appeals or judicial review of the regional committee's decision must be expedited.

The order filed by the SPI that implements either the agreement among school districts or the decision of the regional committee must also specify that any excess tax levy approved by an annexing school district is imposed on the newly annexed territory. Before the effective date of a dissolution, a school district that annexes part or all of a financially insolvent district may submit to the voters either a levy to replace existing levies and provide for an increase due to the dissolution, or an additional levy to provide for an increase due to the dissolution. If these elections do not occur or fail, the transferred territory is relieved of any previous levy associated with the dissolved district, but subject to any previous levy associated with the annexing district. In the case of bonded indebtedness by a dissolved district, the annexing district may refund all or a part of it, or certify a levy to pay the debt.

Boundary changes take effect on the date specified in an order from the ESD to the county auditor. For the purposes of determining property taxes, the boundaries of an annexing district must be established on September 1 (rather than August 1 as is required for most other taxing districts).

Employees of a dissolved district have no continuing contract or grievance rights. The dissolution of the district is sufficient cause for contract nonrenewal or discharge. An annexing district has no obligation to observe terms of collective bargaining agreements of the dissolved district.

A financially insolvent school district may file for bankruptcy only if recommended by the Oversight Committee.

EFFECT OF SENATE AMENDMENT(S):

The date on which new boundaries of a school district are established is set at September 1. Language is removed in which the new boundaries could be established on a date other than September 1, in instances in which the dissolution order specified a different date.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on September 1, 2012.

Staff Summary of Public Testimony:

(In support) This bill provides a clear pathway for a district in trouble to act in a responsible and transparent manner. Lessons that were learned when Vader School District was dissolved are applied and a need in the existing law is addressed.

(In support with concerns) While it is hoped that the provisions of this bill will never be needed, a good, clear plan is created. It is concerning that fund balance is such an important factor in defining a satisfactory financial plan. The recent recession, while technical over, continues to be felt by many districts, resulting in lower than typical existing fund balances. It is concerning that this process might be used as an excuse to consolidate districts under the guise of financial insolvency.

(Opposed) The effective dates provided in this bill create challenges for county election officials. There needs to be enough time to adjust boundaries prior to the time that the election process begins. If these issues were to be resolved, the provisions in this bill would be helpful in creating a clear path to school district dissolution in the event that it is needed.

Persons Testifying: (In support) Representative Anderson, prime sponsor; Shawn Lewis, Office of Superintendent of Public Instruction; and Dan Steele, Washington Association of School Administration.

(In support with concerns) Marie Sullivan, Washington State School Directors' Association.

(Opposed) Monty Cobb, Washington Association of County Officials.

Persons Signed In To Testify But Not Testifying: None.